

ASSEMBLY BILL

No. 1913

**Introduced by Assembly Members Cardenas, Cedillo,
Firebaugh, Runner, Vincent, and Wright and Senators
Hughes and Murray**
(Coauthor: Senator Polanco)

February 11, 2000

An act to add Sections 186.27 and 186.29 to, and to repeal and add Section 186.26 of, the Penal Code, and to amend Sections 625.3, 743, 746, and 749.22 of, and to add Sections 654.5 and 654.7 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1913, as introduced, Cardenas. Juveniles: crime prevention.

(1) Existing law provides that any adult who utilizes physical violence to coerce, induce, or solicit a minor to actively participate in a criminal street gang, as defined, or who threatens a minor with physical violence on 2 or more occasions with a specified period with the intent to do the same, shall be punished by imprisonment in the state prison for one, 2, or 3 years. Existing law also provides that a minor who is 16 years of age or younger who violates these provisions is guilty of a misdemeanor, and that no person shall be convicted of violating these provisions on speech alone except upon a showing of a credible threat of violence, as defined.

This bill would delete the above described provisions and instead provide that any person who threatens another person

with physical violence on two or more occasions with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, or who uses physical violence to do the same, or who uses physical violence to coerce, induce, solicit, or otherwise prevent another person from leaving any criminal street gang, is punishable by imprisonment in the state prison for one, 2, or 3 years. The bill would also provide that if the person solicited, recruited, coerced, or threatened pursuant to these provisions is a minor, an additional and consecutive term of imprisonment of 6, 12, or 18 months shall be imposed. The bill would also provide that any person who actively solicits or recruits a minor on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school when that facility is open for classes, to actively participate in a criminal street gang, or with the intent that the person engage in a pattern of criminal gang activity or otherwise promote, further, or assist in any felonious conduct by members of the gang, shall be punishable by a term of imprisonment in the state prison of one, 2, or 3 years. By changing the definition and scope of an existing crime, and by creating new crimes, this bill would impose a state-mandated local program.

(2) This bill would provide that, contingent upon an appropriation of \$5,000,000 in the state budget for this purpose, reasonable expenses for relocation shall be made available at the discretion of local law enforcement agencies to any person who is a victim of a criminal street gang or is a witness to a gang crime and is willing to testify in court. The bill would provide that local law enforcement agencies shall operate the program at the county level and seek reimbursement from the state.

(3) Existing law provides that a minor who is 14 years of age or older who is taken into custody by a peace officer for the personal use or possession of a firearm during the commission or attempted commission of a felony shall not be released until that minor is brought before a judicial officer for a mental health assessment, as specified.

This bill would expand this requirement to also apply to minors taken into custody during the commission or attempted commission of specified offenses leading to a



presumption that the defendant should be tried as an adult. By imposing new duties on law enforcement officers, this bill would impose a state-mandated local program.

(4) Existing law provides that in cases where a probation officer determines that a minor is or likely will be within the jurisdiction of the juvenile court, the officer may delineate an alternative program or programs, not to exceed 6 months, designed to adjust the situation bringing the minor within the juvenile court's jurisdiction by providing care and treatment for addiction, individual and family counseling, and other services as specified. Existing law provides that a court may, without adjudging the minor a ward of the court, continue any hearing on a petition for 6 months and order the minor to participate in these alternative programs and services.

This bill would provide that all minors designated as eligible for alternative supervision diversion pursuant to these provisions shall be enrolled in an appropriate accredited school program as a condition of program participation, be placed on a probation officer caseload of no more than 35 cases, be given a social history assessment as specified, and be provided with counseling and mental health services, if appropriate. This bill would also provide that, subject to appropriation in the state budget, \$35,000,000 shall be available to local community-based organizations and mental health agencies to provide services pursuant to these provisions.

The bill would also provide that eligible minors arrested for misdemeanor offenses shall be referred to the local probation department or to a local juvenile crime diversion or gang prevention program under supervision of the local police or sheriff's department, which would be responsible for referring the minor to the appropriate program and for confirming the minor completes the program requirements.

The bill would also provide that, subject to appropriation in the state budget, at least \$100,000,000 shall be made available for support of local juvenile crime diversion and gang prevention programs, at least \$50,000,000 shall be made available for utilization by local school district police departments for development of school-based juvenile crime diversion programs, as specified, and at least \$20,000,000 shall

be made available to support local juvenile crime diversion and gang prevention programs for predelinquent youth. By imposing additional duties on local law enforcement personnel, this bill would impose a state-mandated local program.

(5) Existing law establishes a 3-year pilot project, subject to appropriation of funds therefor, to be known as the “Repeat Offender Prevention Project” for operation in specified counties, the purpose of which is to design, establish, implement, and evaluate a model program for the reduction of recidivism among juvenile offenders, as specified.

This bill would specify that this program is contingent upon the appropriation of \$220,000,000, remove the 3-year limitation, and make the program available to every county probation department in the state.

(6) Existing law provides that a minor shall be selected for participation in the Repeat Offender Prevention Project based on several specified factors, including that the minor is 15½ years of age or younger, has been declared a ward of the juvenile court for the first time, and is to be supervised by a probation department selected for participation in the project.

This bill would expand this factor to also include minors who have been designated as eligible for alternative supervision diversion for the first time.

(7) Existing law establishes the Juvenile Crime Enforcement and Accountability Challenge Grant Program, and provides that to be eligible for grants under this program, each county shall establish a multiagency juvenile justice coordinating council, as specified, that shall develop and implement a continuum of county-based responses to juvenile crime.

This bill would instead provide that each county that receives funding under this program or under the Repeat Offender Prevention Project must establish a multiagency coordinating council.

(8) This bill would provide that contingent upon a funding allocation of \$3,500,000 in the state budget, the Gang Violence Reduction Project shall be established in Los Angeles, Orange, Alameda, and San Joaquin Counties as specified.



(9) This bill would provide that contingent upon an allocation of \$3,800,000 in the state budget, the California Youth Authority shall establish a Gang Information and Supervision Agent project at each of its 17 parole districts.

(10) This bill would provide that contingent upon an allocation of \$2,300,000 in the state budget, the Gang Service Project shall be added to each parole unit in the state.

(11) This bill would provide that contingent upon an allocation of \$15,000,000 in the state budget, the California Youth Authority shall administer a bid process for allocation of the funds to local and community agencies that provide gang prevention services in local communities with a high number of commitments to the California Youth Authority.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 186.26 of the Penal Code is
2 repealed.

3 ~~186.26. (a) Any adult who utilizes physical violence~~
4 ~~to coerce, induce, or solicit another person who is under~~
5 ~~18 years of age to actively participate in any criminal~~
6 ~~street gang, as defined in subdivision (f) of Section 186.22,~~

~~the members of which engage in a pattern of criminal gang activity, as defined in subdivision (e) of Section 186.22, shall be punished by imprisonment in the state prison for one, two, or three years.~~

~~(b) Any adult who threatens a minor with physical violence on two or more separate occasions within any 30-day period with the intent to coerce, induce, or solicit the minor to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, the members of which engage in a pattern of criminal gang activity, as defined in subdivision (e) of Section 186.22, shall be punished by imprisonment in the state prison for one, two, or three years or in a county jail for up to one year.~~

~~(c) A minor who is 16 years of age or older who commits an offense described in subdivision (a) or (b) is guilty of a misdemeanor.~~

~~(d) Nothing in this section shall be construed to limit prosecution under any other provision of the law.~~

~~(e) No person shall be convicted of violating this section based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person, that the defendant had the apparent ability to carry out the threat, and that physical harm was imminently likely to occur.~~

~~SEC. 2. Section 186.26 is added to the Penal Code, to read:~~

~~186.26. (a) Any person who threatens another person with physical violence on two or more occasions with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment in the state prison for one, two, or three years.~~

~~(b) Any person who uses physical violence to coerce, induce, or solicit another person to actively participate in any criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment in the state prison for one, two, or three years.~~

(c) Any person who uses physical violence to coerce, induce, solicit, or otherwise prevent another person from leaving any criminal street gang, as defined in subdivision (f) of Section 186.22 shall be punished by imprisonment in the state prison for one, two, or three years.

(d) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor, an additional term of imprisonment of 6, 12, or 18 months shall be imposed in addition and consecutive to the penalty described for a violation of these subdivisions.

(e) Nothing in this section shall be construed to limit prosecution under any other provision of law.

SEC. 3. Section 186.27 is added to the Penal Code, to read:

186.27. Any person who actively solicits or recruits a minor on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school when that facility is open for classes, to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22 or with the intent that the person solicited or recruited engage in a pattern of criminal gang activity, as defined in subdivision (e) of Section 186.22, or with the intent that the person solicited or recruited promote, further, or assist in any felonious conduct by members of the criminal street gang, shall be punishable by a term of imprisonment in the state prison for one, two, or three years.

SEC. 4. Section 186.29 is added to the Penal Code, to read:

186.29. Contingent upon an appropriation of five million dollars (\$5,000,000) in the state budget for this purpose, reasonable expenses for relocation shall be made available to a person who is a victim of a criminal street gang or a witness to a gang crime and is willing to testify in court, if in the judgment of the applicable local law enforcement agency a credible threat of physical harm has been made against the victim or witness, or the immediate family thereof, or where the victim or witness otherwise reasonably fears for his or her safety or the safety of his or her immediate family. Sheriff's

1 departments and local police agencies shall operate the
2 program at the county level and shall seek
3 reimbursement from the state.

4 SEC. 5. Section 625.3 of the Welfare and Institutions
5 Code is amended to read:

6 625.3. Notwithstanding Section 625, a minor who is 14
7 years of age or older and who is taken into custody by a
8 peace officer for the personal use or possession of a
9 firearm during the commission or attempted commission
10 of a felony *or any offense listed in subdivision (b) of*
11 *Section 707* shall not be released until that minor is
12 brought before a judicial officer. At the time the minor is
13 brought before a judicial officer, the judicial officer shall
14 assess the minor's mental health status, and shall order the
15 minor to continue to be detained and a mental health
16 evaluation conducted in accordance with Article 3
17 (commencing with Section 6550) of Chapter 2 of Part 2
18 of Division 6, if the judicial officer concludes that the
19 minor poses a danger to the safety of himself or herself,
20 or to the public. Any firearm found on the person of a
21 minor subject to this section shall be confiscated.

22 SEC. 6. Section 654.5 is added to the Welfare and
23 Institutions Code, to read:

24 654.5. (a) All minors designated as eligible for
25 alternative supervision diversion pursuant to Section 654
26 or 654.2 shall:

27 (1) Be enrolled and attending an appropriate
28 accredited school program as a condition of program
29 participation.

30 (2) Be placed on a probation officer caseload of no
31 more than 35 assigned cases for at least six months.

32 (3) Be given a social history assessment which includes
33 school evaluations, mental health assessment, and family
34 background history.

35 (4) Be provided counseling and mental health
36 services, if appropriate.

37 (b) Subject to appropriation in the state budget, an
38 appropriation of thirty-five million dollars (\$35,000,000)
39 shall be available to local community-based organizations
40 and mental health agencies to provide services to minors

1 eligible for alternative supervision diversion pursuant to
2 Section 654 or 654.2. County probation departments shall
3 allocate these funds on a request for proposal basis.

4 SEC. 7. Section 654.7 is added to the Welfare and
5 Institutions Code, to read:

6 654.7. Minors who are arrested for committing a
7 misdemeanor offense or attempted commission of a
8 misdemeanor offense and who are eligible for alternative
9 supervision diversion pursuant to Section 654 or 654.2
10 shall be referred to the local probation department or to
11 a local juvenile crime diversion or gang prevention
12 programs under the supervision of the local police or
13 sheriff's department.

14 (b) If the minor is not referred to the local probation
15 department, the local police or sheriff's department will
16 be responsible for referring the minor to the appropriate
17 alternative supervision program and confirming that the
18 minor completes the program requirements.

19 (c) Subject to appropriation in the state budget, the
20 State of California shall make at least one hundred million
21 dollars (\$100,000,000) available annually for support of
22 local juvenile crime diversion and gang prevention
23 programs. These funds shall be administered by the
24 Department of Corrections and allocated and distributed
25 through a request for proposal process. A local law
26 enforcement agency shall be the lead applicant.

27 (d) Subject to appropriation in the state budget, the
28 State of California shall make at least fifty million dollars
29 (\$50,000,000) available annually for utilization by local
30 school district police departments for the purpose of
31 developing school-based juvenile crime diversion
32 programs. These funds shall be administered by the
33 Department of Corrections and allocated and distributed
34 through a request for proposal process. Eighty percent of
35 the funds shall be allocated for law enforcement
36 personnel costs, and the remainder shall be used for
37 services and support and for computer technology.

38 (e) Subject to appropriation in the state budget, the
39 State of California shall make at least twenty million
40 dollars (\$20,000,000) available annually to support local

1 juvenile crime diversion and gang prevention programs
2 for predelinquent youth. These funds shall be
3 administered by the Department of Corrections and
4 allocated and distributed through a request for proposal
5 process. A local law enforcement agency or probation
6 department shall be the lead applicant.

7 SEC. 8. Section 743 of the Welfare and Institutions
8 Code is amended to read:

9 743. Contingent upon the appropriation of ~~funds~~
10 ~~therefor, there is hereby established a three-year pilot~~
11 ~~project which shall be known as two hundred twenty~~
12 ~~million dollars (\$220,000,000) annually, the "Repeat~~
13 ~~Offender Prevention Project." This project shall operate~~
14 ~~in the Counties of Fresno, Humboldt, Los Angeles,~~
15 ~~Orange, San Diego, San Mateo, and Solano, and the City~~
16 ~~and County of San Francisco, Project" shall be made~~
17 ~~available to every county probation department in this~~
18 ~~state unless the board of supervisors of one or more of~~
19 ~~these counties adopts a resolution to the effect it will not~~
20 ~~participate in the project, each of which shall either~~
21 ~~design, establish, implement, and evaluate a model~~
22 ~~program to meet the needs of a juvenile offender~~
23 ~~population identified as having the potential to become~~
24 ~~repeat serious offenders utilizing the findings of~~
25 ~~exploratory studies conducted in Orange County~~
26 ~~between 1989 and 1993 by the research staff of the Orange~~
27 ~~County Probation Department and which identified~~
28 ~~certain minors who were designated as the "8 percent"~~
29 ~~population. The main goal of this program is to develop~~
30 ~~and implement a cost-effective multiagency,~~
31 ~~multidisciplinary program which targets youth~~
32 ~~displaying behavior that may lead to delinquency and~~
33 ~~recidivism.~~

34 SEC. 9. Section 746 of the Welfare and Institutions
35 Code is amended to read:

36 746. A minor shall be selected for participation in a
37 program established pursuant to this article based upon
38 the following factors:

39 (a) The minor is 15¹/₂ years of age or younger, has
40 *either* been declared a ward of the juvenile court

1 *pursuant to Section 601 or 602 for the first time or has*
2 *been designated as eligible for alternative supervision*
3 *diversion pursuant to Section 654 or 654.2 for the first*
4 *time, and is to be supervised by a probation department*
5 *selected for participation in this project.*

6 (b) The minor has been evaluated and found to have
7 at least three of the following factors, that place the minor
8 at a significantly greater risk of becoming a chronic
9 juvenile or adult offender:

10 (1) School behavior and performance problems. This
11 shall include at least one of the following: attendance
12 problems; school suspension or expulsion; or failure in two
13 or more academic classes during the previous six months
14 or comparable academic period.

15 (2) Family problems. These shall include at least one
16 of the following: poor parental supervision or control;
17 documented circumstances of domestic violence; child
18 abuse or neglect; or family members who have engaged
19 in criminal activities.

20 (3) Substance abuse. This shall include any regular use
21 of alcohol or drugs by the minor, other than
22 experimentation.

23 (4) High-risk predelinquent behavior. This shall
24 include at least one of the following: a pattern of stealing;
25 chronic running away from home; or gang membership
26 or association.

27 (5) The minor matches the at-risk profile for
28 becoming a chronic and repeat juvenile offender
29 according to the criteria developed by the Multi-Agency
30 At-Risk Youth Committee (MAARYC).

31 SEC. 10. Section 749.22 of the Welfare and Institutions
32 Code is amended to read:

33 ~~749.22. To be eligible for this grant, each county shall~~
34 ~~be required to~~ *Counties that receive funding pursuant to*
35 *Section 743 or from the Juvenile Crime Enforcement and*
36 *Accountability Challenge Grant Program shall establish*
37 *a multiagency juvenile justice coordinating council that*
38 *shall develop and implement a continuum of*
39 *county-based responses to juvenile crime. The*
40 *coordinating councils shall, at a minimum, include the*

1 chief probation officer, as chair, and one representative
2 each from the district attorney's office, the public
3 defender's office, the sheriff's department, the board of
4 supervisors, the department of social services, the
5 department of mental health, a community-based drug
6 and alcohol program, a city police department, the
7 county office of education or a school district, and an
8 at-large community representative. In order to carry out
9 its duties pursuant to this section, a coordinating council
10 shall also include representatives from nonprofit
11 community-based organizations providing services to
12 minors. The board of supervisors shall be informed of
13 community-based organizations participating on a
14 coordinating council. The coordinating councils shall
15 develop a comprehensive, multiagency plan that
16 identifies the resources and strategies for providing an
17 effective continuum of responses for the prevention,
18 intervention, supervision, treatment, and incarceration
19 of male and female juvenile offenders, including
20 strategies to develop and implement locally based or
21 regionally based out-of-home placement options for
22 youths who are persons described in Section 602.
23 Counties may utilize community punishment plans
24 developed pursuant to grants awarded from funds
25 included in the 1995 Budget Act to the extent the plans
26 address juvenile crime and the juvenile justice system or
27 local action plans previously developed for this program.
28 The plan shall include, but not be limited to, the following
29 components:

30 (a) An assessment of existing law enforcement,
31 probation, education, mental health, health, social
32 services, drug and alcohol and youth services resources
33 which specifically target at-risk juveniles, juvenile
34 offenders, and their families.

35 (b) An identification and prioritization of the
36 neighborhoods, schools, and other areas in the
37 community that face a significant public safety risk from
38 juvenile crime, such as gang activity, daylight burglary,
39 late-night robbery, vandalism, truancy, controlled

1 substance sales, firearm-related violence, and juvenile
2 alcohol use within the council's jurisdiction.

3 (c) A local action plan (LAP) for improving and
4 marshaling the resources set forth in subdivision (a) to
5 reduce the incidence of juvenile crime and delinquency
6 in the areas targeted pursuant to subdivision (b) and the
7 greater community. The councils shall prepare their
8 plans to maximize the provision of collaborative and
9 integrated services of all the resources set forth in
10 subdivision (a), and shall provide specified strategies for
11 all elements of response, including prevention,
12 intervention, suppression, and incapacitation, to provide
13 a continuum for addressing the identified male and
14 female juvenile crime problem, and strategies to develop
15 and implement locally based or regionally based
16 out-of-home placement options for youths who are
17 persons described in Section 602.

18 (d) Develop information and intelligence-sharing
19 systems to ensure that county actions are fully
20 coordinated, and to provide data for measuring the
21 success of the grantee in achieving its goals. The plan shall
22 develop goals related to the outcome measures that shall
23 be used to determine the effectiveness of the program.

24 (e) Identify outcome measures which shall include,
25 but not be limited to, the following:

26 (1) The rate of juvenile arrests.

27 (2) The rate of successful completion of probation.

28 (3) The rate of successful completion of restitution and
29 court-ordered community service responsibilities.

30 SEC. 11. The Legislature finds and declares the
31 following:

32 (a) The California Youth Authority successfully
33 operated the Gang Violence Reduction Project in the
34 East Los Angeles area for many years. This project
35 received national, state, and local recognition for the
36 innovative and effective impact the project had on gang
37 violence. The two key components attributed to the
38 program's success were that the program was operated
39 and managed by the Youth Authority parole agents who
40 provided essential credibility with other law

1 enforcement agents and the program operated on a dual
2 mission, which was to provide critical intelligence to law
3 enforcement regarding gang activity and mitigate or
4 prevent gang conflicts that lead to violence. Contingent
5 on a funding allocation of three million five hundred
6 thousand dollars (\$3,500,000) in the state budget, the
7 California Youth Authority Gang Violence Reduction
8 Project shall be established in four counties throughout
9 the state, Los Angeles, Orange, Alameda, and San Joaquin
10 Counties, to provide eight hundred fifty thousand dollars
11 (\$850,000) per project site to include the cost of Youth
12 Authority personnel, equipment, and services.

13 (b) The Department of Youth Authority currently
14 supervises gang-involved parolees throughout 17 parole
15 offices, however, these parolees are not consolidated into
16 specified gang caseloads. A Gang Information
17 Supervision Agent position should be established in each
18 parole district throughout the state. The Gang
19 Information Supervision Agent would allow for greater
20 coordination between law enforcement and probation
21 officers for high risk gang involved parolees. Contingent
22 on an allocation of three million eight hundred thousand
23 dollars (\$3,800,000) in the state budget, the California
24 Youth Authority shall establish the Gang Information and
25 Supervision Agent project at each of its 17 parole districts.

26 (c) The Department of Youth Authority currently
27 operates two Gang Service Projects in the state. This
28 program provides additional supervision to gang
29 identified youth as well as providing a designated amount
30 of community service hours. Youth Correctional
31 Counselor positions should be added to each parole unit
32 to provide the additional supervision and establish the
33 community service projects. Contingent on an allocation
34 of two million three hundred thousand dollars
35 (\$2,300,000) in the state budget, the Gang Service Project
36 shall be added to each parole unit in the state.

37 (d) The Department of Youth Authority currently
38 administers the Youth Centers and Youth Shelters Bond
39 Act. The bond act, together with additional
40 appropriations, has allowed the department to distribute



1 approximately fifty million dollars (\$50,000,000) in capital
2 improvement costs to build or acquire youth centers and
3 youth shelters throughout California. This has been a
4 major contribution to providing a safe and appropriate
5 place for at-risk youth. However, adequate operating
6 funds for these centers has not been provided.
7 Contingent on an allocation of fifteen million dollars
8 (\$15,000,000) in the state budget, the Department of the
9 Youth Authority shall administer a bid process for
10 allocation of these funds to local and community agencies
11 that provide gang prevention services in local
12 communities with high number of commitments to the
13 California Youth Authority.

14 SEC. 12. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution for certain costs that may be incurred by a
17 local agency or school district because in that regard this
18 act creates a new crime or infraction, eliminates a crime
19 or infraction, or changes the penalty for a crime or
20 infraction, within the meaning of Section 17556 of the
21 Government Code, or changes the definition of a crime
22 within the meaning of Section 6 of Article XIII B of the
23 California Constitution.

24 However, notwithstanding Section 17610 of the
25 Government Code, if the Commission on State Mandates
26 determines that this act contains other costs mandated by
27 the state, reimbursement to local agencies and school
28 districts for those costs shall be made pursuant to Part 7
29 (commencing with Section 17500) of Division 4 of Title
30 2 of the Government Code. If the statewide cost of the
31 claim for reimbursement does not exceed one million
32 dollars (\$1,000,000), reimbursement shall be made from
33 the State Mandates Claims Fund.

